

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CHRISTOPHER INNISS, et al.,

Plaintiffs,

v.

DEBORAH ADERHOLD, et al.,

Defendants.

Civil Action Number
1:14-CV-01180-WSD

JOINT STATUS REPORT

On September 2, 2015, this Court issued an Order instructing the parties to file a joint status report regarding the impact of *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) on Plaintiffs' claims, and recommendations for further processing of the case. ECF No. 65. The parties respectfully submit the following joint status report for the Court's information and consideration.

PROCEDURAL HISTORY

Plaintiffs are four same-sex couples and a widow who initiated a putative class action challenging Georgia constitutional and statutory laws (collectively, the "marriage ban") that denied them the right to marry or to have their lawful

marriages from other jurisdictions recognized in their home state. *See, e.g.*, Ga. Const. art. I, § IV, para. I; O.C.G.A. § 19-3-3.1. Plaintiffs challenged the marriage ban as a denial of due process and equal protection under the Fourteenth Amendment to the federal Constitution, naming as defendants two state officials, as well as two officials responsible for issuing marriage licenses in Fulton and Gwinnett Counties, respectively. ECF Nos. 1, 37. The state officials named as defendants in the case, Defendants Deborah Aderhold and Monica P. Fenton (the “State Defendants”), moved to dismiss Plaintiffs’ claims. ECF Nos. 29, 42. This Court granted the motion to dismiss in part, rejecting Plaintiffs’ claims that the marriage ban deprives them of fundamental rights secured by the Fourteenth Amendment’s Due Process Clause. ECF No. 49 at 30-37. The Court ruled that Petitioners’ equal protection claim could proceed under rational basis review. *Id.* at 39-42.

Recognizing that the courts have differed on these issues, the Court certified its opinion for interlocutory review pursuant to 28 U.S.C. § 1292(b). ECF No. 61. Plaintiffs and State Defendants each petitioned the Eleventh Circuit for permission to appeal this Court’s order. *Inniss v. Aderhold*, Nos. 15-90002-E, 15-90003-E (11th Cir.). In light of the Supreme Court’s decision to review *Obergefell*, the Clerk of the Eleventh Circuit issued a memorandum on February 17, 2015

notifying the parties that the petitions had been held in abeyance, and directing the parties to notify the Court of any remaining issues after a decision in *Obergefell*.

The Supreme Court issued its decision in *Obergefell* on June 26, 2015, and officials in Fulton County and Gwinnett County began issuing marriage licenses that day. State Defendants and Plaintiffs submitted status reports to the Eleventh Circuit on July 16, 2015 and July 17, 2015, respectively. Plaintiffs argued that *Obergefell*'s ruling that same-sex couples share the fundamental right to marry clarified that this Court's order dismissing that claim was in error. *Inniss*, No. 15-90002, Pet'rs-Pls.' Status Report at 1 (11th Cir. July 17, 2015); *Inniss*, No. 15-90003, Pet'rs-Pls.' Status Report at 1 (11th Cir. July 16, 2015). Plaintiffs requested that the Eleventh Circuit grant the petitions for interlocutory review, vacate the District Court's decision, and remand the matter for entry of judgment, as the First Circuit has done in a similar case. *Inniss*, No. 15-90002, Pet'rs-Pls.' Status Report at 3-5 (11th Cir. July 17, 2015); *Inniss*, No. 15-90003, at 3-5 (11th Cir. July 17, 2015); *see also id.* at 5 Ex. A (attaching First Circuit order in *Conde-Vidal v. Rius-Armendariz*, No. 14-2184 (1st Cir. July 8, 2015)). Other courts have similarly concluded that judgment must be entered in favor of complainants in these cases. *See e.g., Jernigan v. Crane*, No. 15-1022 (8th Cir. Aug. 11, 2015) (per curiam) (affirming the district court's ruling that Arkansas' marriage ban is

unconstitutional); *Robicheaux v. Caldwell*, 14-31037 (5th Cir. July 1, 2015) (instructing that the district court reverse plaintiffs' loss, and enter judgment for plaintiffs); *De Leon v. Perry*, No. 5:13-cv-00982, ECF No. 98 (W.D. Tex. July 7, 2015) (entering judgment for plaintiffs); *Robicheaux v. Caldwell*, No. 2:13-cv-05090, ECF No. 142 (E.D. La. July 2, 2015) (same); *Campaign for Southern Equality v. Bryant*, No. 3:14-cv-00818, ECF No. 35 (S.D. Miss. July 1, 2015) (same); *Jorgensen v. Montplaisir*, No. 3:14-cv-00058, ECF No. 60 (D.N.D. June 29, 2015) (same).

State Defendants' status report argued that Plaintiffs' case has become moot after *Obergefell*. *Inniss*, No. 15-90002, Notification of Case Status Pursuant to Order of the Court ("Notification") at 9 (11th Cir. July 16, 2015); *Inniss*, No. 15-90003, Notification at 9 (11th Cir. July 16, 2015). After further discussion, however, the parties have reached agreement that entry of judgment is appropriate, as described further below.

The Eleventh Circuit has not yet acted on Plaintiffs' and State Defendants' petitions.

IMPACT OF *OBERGEFELL V. HODGES* ON THIS CASE, AND RECOMMENDATION FOR FURTHER PROCESSING

The parties agree that the holding in *Obergefell* controls the analysis of Plaintiffs' claims. The parties further agree that this Court should vacate its

motion to dismiss ruling in light of *Obergefell*. Finally, the parties agree that the Court should enter judgment in favor of Plaintiffs, decreeing that:

1. Any source of Georgia law that denies same-sex couples the freedom to marry, or denies recognition for their valid marriages from another jurisdiction, including but not limited to Georgia Constitution art. I, § IV, para. I, and Official Code of Georgia Annotated §§ 19-3-3.1, 19-3-30, violates the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, and may not be enforced against Plaintiffs or any other same-sex couple.

2. Defendants and their officers, employees, agents, and all other individuals under their supervision, direction, or control are permanently enjoined from enforcing any source of Georgia law that denies same-sex couples the freedom to marry, or denies recognition for their valid marriages from another jurisdiction, including but not limited to Georgia Constitution art. I, § IV, para. I, and Official Code of Georgia Annotated §§ 19-3-3.1, 19-3-30. *See, e.g., Robicheaux*, No. 2:13-cv-05090, ECF No. 142; *De Leon*, No. 5:13-cv-00982, ECF No. 98.

Plaintiffs have agreed not to seek fees or costs in this matter.

Respectfully submitted this 15th day of September, 2015,

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LOCAL RULE 7.1(D) CERTIFICATION OF COMPLIANCE

I certify that this pleading has been prepared with Times New Roman font, 14 point, as approved by the Court in L.R. 5.1(C), N.D. Ga.

Respectfully submitted on September 15, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2015, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will automatically send email notification to the following attorneys of record:

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